

REMARKS

In the Office Action, the Examiner:

- Rejected claims 1-9, 11-26, and 28-33 under 35 U.S.C. § 103(a) as being unpatentable over Picco (U.S. 6,029,045) in view of Lindstrom (U.S. 5,029,014); and
- Rejected claims 10 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Picco (U.S. 6,029,045) in view of Lindstrom (U.S. 5,029,014) and in view of Official Notice taken by the Examiner.

Rejection under 35 U.S.C. §103(a) Picco and Lindstrom

As noted above, the Examiner rejected claims 1-9, 11-26, and 28-33 under 35 U.S.C. § 103(a) as being unpatentable over Picco (U.S. 6,029,045) in view of Lindstrom (U.S. 5,029,014).² Independent claims 1, 11, 18, and 28 have been amended to distinguish over Picco taken alone and/or in view of Lindstrom. Specifically, the following language has been added to the independent claims, i.e., claims 1, 11, 18, and 28 as follows:

determining if all the multimedia segments required by the play-list have been received and in response to one or more multimedia segments not received, then requesting one or more missing multimedia segments from a secondary media source different than the primary media source from which the multimedia segments were previously requested but not received, wherein the secondary media source is selected from a group of secondary media sources consisting of a second broadcast channel, internet, and removable computer readable medium

Support for this claim language can be found in the application as originally filed at pages 13-14 and FIG. 6.

² Applicants make no statement whether such combination is even proper.

The present invention, permits multimedia segments from a group of primary media sources to be received by client systems, the client system determines and validates that all of the multimedia segments required by the play-list have been received and in response to one or more multimedia segments not received, then requesting one or more missing multimedia segments from a secondary media source different than the primary media source from which the multimedia segments were previously requested but not received. The secondary media source is selected from a group of secondary media sources consisting of a second broadcast channel, internet, and removable computer readable medium

This type of error recovery for missing multimedia segments from a backup media source is nowhere taught or suggested by Picco taken alone and/or in view of Lindstrom. Accordingly, independent claims 1, 11, 18, and 28 distinguish over Picco taken alone and/or in view of Lindstrom for at least these reasons.

Further, Picco teaches error recovery as applied to MPEG II encoding and other digital compression to correct decoding errors. See, for example, Picco at col. 11, lines 18-67. However, this teaching by Picco is not the same as using a secondary media source different than the primary media source from which the multimedia segments were previously requested but not received, wherein the secondary media source is selected from a group of secondary media sources consisting of a second broadcast channel, internet, and removable computer readable medium. Moreover, Lindstrom is completely silent on any error recovery.

Accordingly, independent claims 1, 11, 18, and 28 distinguish over Picco for at least these reasons.

Independent claims 1, 11, 18, and 28 have been amended to distinguish over Picco taken alone and/or in view of Lindstrom. Claims 2-9, 12-17, 19-26, and 29-33 depend

from claims 1, 11, 18, and 28 respectively. Since dependent claims contain all the limitations of the independent claims, claims 2-10, 12-17, 19-27, and 29-33 distinguish over Picco taken alone and/or in view of Lindstrom, as well.

Rejection under 35 U.S.C. §103(a) Picco and Lindstrom and Office Notice

As noted above, the Examiner rejected claims 10 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Picco (U.S. 6,029,045) in view of Lindstrom (U.S. 5,029,014) and in view of Official Notice taken by the Examiner. As noted above, independent claims 1, 11, 18, and 28 have been amended to distinguish over Picco taken alone and/or in view of Lindstrom. Dependent claims 10 and 27, depend from independent claims 1 and 18, respectively. Since dependent claims contain all the limitations of the independent claims, claims 10 and 27, distinguish over Picco taken alone and/or in view of Lindstrom, as well.

Further, the Applicants respectfully submit that the present invention distinguishes over the Examiner's Office Notice regarding the time of rendering being a date in dependent claims 10 and 27. If, however, the Examiner's statements are based on facts within the personal knowledge of the Examiner, the Applicants respectfully request that the Examiner support these references by filing an affidavit as is allowed under MPEP §707 citing 37 CFR 1.104(d)(2).

CONCLUSION

The remaining cited references have been reviewed and are not believed to effect the patentability of the claims as previously amended.

In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of

patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to the disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §§ 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE, if for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to call either of the undersigned attorneys at (561) 989-9811 should the Examiner believe a telephone interview would advance the prosecution of the application.

Respectfully submitted,

Date: May 3, 2004

By: 

John A. Gibbons
Registration No. 37,333
Attorney for Applicants

FLEIT, KAIN, GIBBONS,
GUTMAN, BONGINI & BIANCO P.L.
One Boca Commerce Center, Suite 111
551 Northwest 77th Street
Boca Raton, FL 33487
Tel. (561) 989-9811
Fax (561) 989-9812